

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9606 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 No

MAHENDRA RAMJIBHAI SINDHAV

Versus

COLLECTOR

Appearance:

MR PH PATHAK for Petitioners

MR RV DESAI AGP for Respondent

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 15/09/2000

ORAL JUDGEMENT

1. RULE. The learned Assistant Government Pleader Mr.R.V.Desai waives service of Rule on behalf of the respondent.

2. The petitioners under Articles 14, 16 and 226 of

the Constitution pray for a direction to the respondent to re-employ the petitioners on the basis of their right under Section 25-H of the Industrial Disputes Act, 1947. It is submitted on behalf of the petitioners that similar petitions being Special Civil Applications Nos.2188 of 2000 and 2388 of 2000 have been entertained by this Court and appropriate orders to re-employ the similarly situated employees in those cases are made. A copy of the oral judgment dated 2.5.2000 of this Court in the aforesaid petitions is annexed with the petition. It is further submitted that even while re-employing the employees pursuant to the aforesaid order, the respondent has not considered the case of the present petitioners although they were senior to several other employees who were re-employed. On this basis, it is submitted that the present petitioners should also be given the same treatment and ordered to be re-employed by the respondent.

3. By the earlier order of this Court in the aforesaid petitions, the respondent is directed to consider the cases of the petitioners on the condition that the petitioners will not be entitled to claim any right of continuity and/or regularisation against the respondent. The petitioners in those petitions are directed to file undertakings to the effect that the petitioners would not claim any right on the basis of such appointments, which would be without prejudice to the rights and contentions of the parties in the reference case pending before the Labour Court, Surendranagar. It is also clarified that after the completion of the work, the petitioners shall be liable to be discharged in order of seniority.

4. The learned counsel for the respondent concedes that pursuant to the order as above, the other similarly situated employees have been re-employed and the present petitioners may also be re-employed subject to availability of work and vacancy. A statement is made that without prejudice to the rights and contentions of the respondent, if need arises for engagement of employees in the category of clerk-cum-typist on a temporary basis during the panchayat elections, the respondent shall employ the petitioners subject to his powers of appointment.

5. Accordingly, the respondent is directed to consider the cases of the petitioners for re-employment in order of seniority among the employees required to be re-employed in accordance with Section 25-H of the I.D.Act on a temporary basis during the panchayat

elections, if the work is available and the respondent proposes to employ any more persons in the same category. It is clarified that such appointments shall be without prejudice to the rights and contentions of the parties on both the sides in the reference case pending before the Labour Court, Surendranagar and such appointments shall not create any right for continuity or regularisation. With these directions, the petition is partly allowed and disposed of. Rule is made absolute with no order as to costs. Direct service is permitted.

Sd/-

(KMG Thilake)

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